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USTR FOR GBLUE and VICTORIA KADER; DEPARTMENT FOR EB/TPP/BTA and
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SUBJECT: MODIFIED CABLE: SRI LANKA - 2010 NTE REPORT ON SANITARY AND
PHYTOSANITARY (SPS) AND STANDARDS-RELATED FOREIGN TRADE BARRIERS

REF: SECSTATE 105978

11. (U) This cable corrects an earlier version by replacing paragraphs 10 and 11 with paragraph 10 here. The following is in response to reftel's request on Sanitary and Phytosanitary (SPS) and Standards Related Foreign Barriers to trade in Sri Lanka.

STANDARDS

12. (U) The Sri Lanka Standards Institution (SLSI) is operating a Compulsory Import Inspection Scheme (covering 102 items) per regulations framed under the Imports and Exports Control Act, No. 1 of 1969 as amended by Act No. 28 of 1987. According to the Imports Standardization and Quality Control Regulations of 2006, conformity of the imported products to the relevant Sri Lankan Standards are monitored. Samples are drawn from consignments accompanied by a quality certificate from an accredited laboratory or manufacturer registered with SLSI, which could be subject to testing or random check, or if there is a reasonable doubt regarding the quality of the consignment.

13. (U) Sri Lanka has introduced new food safety regulations. According to the Adoption of Standards Regulations of 2008 (Ref. No. 1589/34 - FEB 2009), 158 SLSI standards were made mandatory starting in September 2009 for certain food and beverage products. (NOTE: Post will provide a PDF document containing notification of the regulations per request. END NOTE.) The SLSI standards range from commodities to processed products. Though these standards did exist previously, they were for the most part voluntary. Some U.S. companies are concerned that these newly-mandatory measures do not factor in market preferences and could restrict trade. The Ministry of Health, which is the CODEX focal point, plans to notify the WTO with regard to this new regulation.

TECHNICAL BARRIERS TO TRADE

14. (U) In January 2007, the Ministry of Health adopted a regulation for the import, sale and mandatory labeling of genetically engineered (GE) food products, potentially costing U.S. industry as much as \$20 million. This regulation is moving towards full implementation, although some aspects of it are irregularly enforced or not enforced at all. Key problems with the regulation include: mandatory Sri Lankan regulatory approval of foods with 0.05 percent or more of GE content; labeling for products with more than 0.05 percent of GE content; and the requirement that shipments of bulk commodities be accompanied by documentation certifying that there is no GE content. Sri Lankan importers have raised several concerns about the regulation, including that conformity with a 0.05 percent GE content labeling threshold would be costly and that mandatory labeling could needlessly raise consumer concerns with biotechnology. Additionally, importers fear that bureaucratic procedures in granting approvals - as well as Sri Lanka's technical

inability to carry out approvals - may obstruct and limit future imports of GE products. For example, a 2008 U.S. GE corn shipment was cancelled due to excessive bureaucratic delays. This decision has discouraged many Sri Lankan importers from attempting to import unprocessed GE bulk commodities, as it is understood that their import license application will be ignored, delayed or refused.

15. (U) During October 2009 discussions under the United States-Sri Lanka Trade and Investment Framework Agreement (TIFA), the United States raised concerns regarding Sri Lanka's mandatory labeling requirement, noting a lack of scientific justification, and adding that the regulation would essentially act as a nontariff barrier. Sri Lanka stated that they would follow CODEX Alimentarius guidelines pertaining to the labeling of GE foods, and noted that CODEX had not yet ruled on this issue. The United States also reminded Sri Lanka of the trade ramifications of their GE policy, including the previously mentioned corn shipment as well as a rejected November 2008 food aid shipment of rice. Sri Lankan regulators were not persuaded to change their position. The USG will continue to raise the issue.

16. (U) USDA has sent several local scientists and regulators for training in biotechnology and biosafety at Michigan State University. The most recent regulator to participate in this program is the Director of Biosafety at the Ministry of Environment, who is a senior regulator with respect to agricultural biotechnology. He is also the coordinator for the National Biosafety framework. His view of biotechnology was positively transformed by the training, and he acknowledged several previous personal misconceptions. USDA and the State Department will continue to work with Ministry of Environment officials to affect

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regulatory change.

SANITARY AND PHYTOSANITARY (SPS) MEASURES

17. (U) POULTRY: Sri Lanka has banned the importation of U.S. chicken meat that is not mechanically deboned. During the October 2009 United States-Sri Lanka TIFA meeting, Sri Lanka openly admitted that this measure was in place to protect its domestic industry and contended that this was permitted under the use of a WTO safeguard mechanism. The U.S. government responded that if this were the case, that safeguard should be formally raised within the WTO. Additionally, Sri Lanka had imposed avian influenza bans on all poultry and poultry products imported from several U.S. states. As of October 2009, these bans were all removed. Sri Lanka imposed these bans due to the detection of low pathogenicity notifiable avian influenza, an action which is not supported by the World Organization for Animal Health (OIE). Sri Lanka was reluctant to remove the bans and continues to believe that their actions were justified - raising concerns that such action may reoccur.

18. (U) BEEF: A ban on U.S. beef imports remains in effect due to the detection of bovine spongiform encephalopathy (BSE) in the United States in 2003. This ban is also not supported by the OIE, and Sri Lanka is one of five countries in the world to have taken absolutely no action to lift any part of their BSE-related U.S. beef ban. This issue was raised during the October 2009 TIFA. Sri Lanka defended their position by incorrectly citing the guidelines and recommendations of the OIE's guidelines for meat and poultry.

19. (U) MICROBIOLOGICAL TESTING OF MEAT IMPORTS: In September 2009, Sri Lanka started 100% testing of all imported meat products for various pathogens. This policy change was not notified to the WTO. Importers have complained that the additional demurrage costs associated with the testing are unnecessary, and that government testing methods are not sound. The U.S. Department of Agriculture additionally argues that the USDA Food Safety Inspection Service attestation which mandatorily accompanies all meat exports is a sufficient assurance of wholesomeness. During the October 2009 TIFA, Sri Lanka was asked to provide its regulation on microbiological testing, especially as it relates to their testing protocol, targeted pathogens, and acceptable pathogen levels. The U.S. government also emphasized the importance of notifying the WTO SPS committee of this regulation.

¶10. (U) Seed Potato: Sri Lanka lifted a ban on imports of seed potato from the United States in March 2007, initially instituted due to fears that the Colorado Potato Beetle (CPB) could have been introduced into Sri Lanka by these imports. However, Sri Lanka now requires a certificate from a plant entomologist stating that the CPB does not exist in the potato tuber to accompany the seed potato imports. The United States has pressed for the removal of this certificate requirement on the grounds that it was not scientifically justified. In July 2008, Sri Lankan officials visited the U.S. potato industry to further review the issue. It is hoped that as a result of this visit, the issue will be resolved and a visual inspection at the time of shipment will be considered sufficient to address any concerns. Although this issue may be addressed, recent 2008 import permits have included overly restrictive virus tolerances and requirements on generations of seed potatoes. There is concern that the generation requirements are not being applied to seed potatoes imported from other markets such as Europe. The CPB area freedom certificate, virus tolerances, and restrictive generation requirements all need to be addressed before the Sri Lankan market can grow into a strong commercial export market for U.S. seed potatoes.

¶11. (U) Information contained in this cable will also be provided to requesting offices as a Word document via email. Questions should be directed to EconOff Ken Kero-Mentz at keroaka@state.gov.

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